IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 8201 OF 2006

Thakarchand Bhikamchand
Punam iya (HUF) & ors..... Petitioner

versus

M/s. Buddhdev Enterprises & ors..... Respondent.

Mr. A.R.Abhyankar Sr. Adv. with Mr. R.S.Datar for the petitioner.
Mr. P.K.Dhakephalkar Sr. Adv. with Mr. Sachin Dhakephalkar for Respondent no.6.

CORAM; A.P. DESHPANDE, J.
DATED; 11TH JUNE, 2007

P.C.;

1. The petitioners are original plaintiffs who instituted a suit for enforcement of statutory obligation under the Maharashtra Ownership of Flats Act besides seeking possession of four flats pursuant to the agreement allegedly executed by one Umesh, husband of Respondnt no.2. The trial court as also the First Appellate Court have cocurrently held that the plaintiffs have failed to establish a primafacie case and have also further concluded that the balance of convenience lies in favour of the defendents. So concluding both the courts have rejected the prayer for temporary injunction. Both the courts have also held that the agreement in question cannot be construed as an agreement under the Maharashtra

Onwership of Flasts Act, as there were no sanctioned plan in existence when the agreement came to be executed. As of now, I am informed by the learned counsel for the respondent, that the construction of the commercial complex has reached the stage of ground plus two and as per the existing plans the flats that are claimed in the suit does not exist at all.

2. Perused the impugned order. The same does not commit any error of law, requiring interference in exercise of writ jurisdiction. Hence writ petition is summarily dismissed.

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